

## Alternative dispute resolution (ADR)

If you have a dispute over the supply of goods or services that you have been unable to settle through negotiation, you may wish to consider using an **alternative dispute resolution** scheme rather than taking court action. These schemes use a third party such as an **arbitrator** or an **ombudsman** to help you and the supplier reach a solution. You will usually have to complete the supplier's internal complaints procedure beforehand and you may have to pay a fee for using the scheme. This is usually refunded if you are successful. **Some** schemes are **legally binding**, which means you cannot take court action if you aren't satisfied with the decision, except to enforce an award. If your claim is over £5,000, you should discuss the possibility of ADR with your solicitor. If your claim is less than this amount, you should look at the pros and cons of ADR and small claims actions and decide which would be the best course of action for you.

## Advantages of using ADRs

The main advantages of using an ADR are:

- you may resolve your **problem**
- you may be awarded **compensation**
- the procedure is **less formal** than going to **court**
- in some schemes, the decision may be **binding** on the trader but not on you, leaving you free to pursue through court if you wish
- it may **cost** you **less** than going to court
- the procedure is confidential.

## Things to think about

- the costs involved. Compare the arbitrators'/mediators' fee with the costs involved in going to court
- would you prefer to have a hearing, where you can put your point across in person, or have the matter dealt with on paper (**documents only** process)
- if the arbitrators' decision is legally binding, it will prevent you taking the matter through the courts
- you may have to pay further costs to enforce the arbitrators' decision through the courts.

## Types of ADR

The main types of ADR that deal with consumer disputes are **conciliation**, **arbitration** or **mediation** and are usually provided by trade associations. If you wish to use one of these schemes, you should ask the suppliers whether they are members of a trade association and, if so, contact the trade association to find out whether it has a conciliation and/or arbitration service.

### Conciliation

In consumer disputes, **conciliation** is the **first stage** in the **arbitration** process and the conciliator is usually a member of the trade association. Both you and the supplier will be asked to give written details of the complaint, including any evidence, and the conciliator will give an opinion on the best solution. Any decision is not binding and won't prevent you from taking court action. If you disagree with the opinion offered, you can then proceed to the arbitration stage or consider suing in court. There is usually no charge for conciliation.

### Arbitration

**Arbitration** is a procedure for settling disputes in which both you and the supplier usually agree to accept the **decision** of the arbitrator as **legally binding**. This means you cannot take court action, except to enforce the award if the supplier doesn't pay. The arbitrator will usually be a member of the Chartered Institute of Arbitrators and often acts independently of the trade association. The arbitrator will make a decision based on the **written** evidence presented by you and the supplier. The decision is confidential and cannot be made public without the supplier's agreement. You will have to pay a registration fee which may be refunded if you are successful.

Some **contracts** for **services** and **delivery notes** include an **arbitration clause** stating that you will refer any dispute to arbitration. Although this is binding once you have signed the agreement, if the total cost is below the small claims limit (£5,000), you cannot be forced to arbitrate unless you gave your agreement after the dispute arose.

### Mediation

If you use a mediation scheme, the **mediator** will **help** you and the supplier to **negotiate** an acceptable agreement and will act as a go between if you don't want to meet. If the supplier agrees to mediation, you will both be asked to give details of the dispute, including copies of any evidence and will be asked to sign a mediation agreement giving a framework for the mediation. The mediator may arrange joint or separate meetings with you and the supplier and will help you to identify the strengths and weaknesses in your case. If an agreement is reached, you will both be asked to meet to draft the terms of the settlement. This will be legally binding unless you state otherwise and will prevent you from taking court action except to enforce the award. Mediation can be expensive, but you may be able to get legal aid to help with the costs.

## Ombudsman schemes

Many services have an Ombudsman scheme that you can use. For example, services provided by insurance companies, banks and building societies are all covered by the **Financial Ombudsman Service (FOS)**. You will only be able to refer the matter to the Ombudsman after you have completed the supplier's internal complaints procedure. You will need to give written details of your complaint, together with copies of any of your evidence. The Ombudsman will make a **recommendation** or a **ruling** which is usually accepted by the supplier, but **isn't legally binding**. Hence you can still take court action if you aren't satisfied with the decision. However, the court will take the Ombudsman's ruling into account when deciding your claim. All the Ombudsman schemes are free.

## Finding an ADR scheme

If you are interested in ADR, you should find out whether the trader is a member of any trade association that offers such a service. If you have any difficulty contacting the trade association or finding out whether there is a relevant ombudsman scheme, or if the trader is **falsely** claiming membership of an association, you should contact Consumer Direct on 0845 404 0506.

This fact sheet lists some of the organizations that offer ADR schemes. You should enquire whether there is a charge for their services before you commit yourself. The Law Society has established a Civil and Commercial Mediation Panel to help members of the public find qualified solicitor mediators. For more details about this panel, call 0870 606 3555, extension 3286.

If you bought the goods or services in another European country, a European Consumer Centre might be able to help you find a suitable alternative dispute resolution body. To find out more about European Consumer Centres, go to the UK European Consumer Centre website at: [www.ukecc.net](http://www.ukecc.net) or call 08456 040503.

## Further help

### Chartered Institute of Arbitrators

12 Bloomsbury Square  
London  
WC1A 2LP

Tel: 020 7421 7444

Website: [www.ciargb.org](http://www.ciargb.org)

### Financial Services Ombudsman

South Quay Plaza  
183 Marsh Wall  
London  
E14 9SR

Tel: 0845 080 1800

Website:

[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

## Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB, including those that give advice by e-mail, click on [nearest CAB](#), or look under C in your phone book.

## Other fact sheets on Adviceguide which might help

- Services
- Going to court
- Starting court action
- Buying goods and services within Europe
- Goods

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